



February 9, 2005

---

## HOUSE BILL No. 1407

---

DIGEST OF HB 1407 (Updated February 3, 2005 12:58 pm - DI 75)

**Citations Affected:** IC 3-5; IC 3-6; IC 3-8; IC 3-10; IC 3-11; IC 3-11.5; IC 3-12; IC 3-14.

**Synopsis:** Voting systems. Removes obsolete references to voting machines. Repeals obsolete statutes relating to voting machines.

**Effective:** July 1, 2005.

---

---

**Richardson, Mahern, Thomas**

---

---

January 13, 2005, read first time and referred to Committee on Elections and Apportionment.  
February 8, 2005, amended, reported — Do Pass.

---

---

C  
o  
p  
y

HB 1407—LS 7361/DI 75+



February 9, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1407

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 3-5-2-3 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 3. "Ballot" means:

- 3 (1) the paper ballot prepared, printed, and supplied for use at an  
4 election;  
5 (2) the ballot label prepared, printed, and supplied for use on the  
6 front of a ~~voting machine~~ or an electronic voting system; or  
7 (3) the ballot card prepared, printed, and supplied for use in a  
8 ballot card voting system.

9 SECTION 2. IC 3-5-2-5 IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2005]: Sec. 5. "Ballot label" means:

- 11 (1) the printed strip or sheet of cardboard or paper, supplied for  
12 use on a ~~voting machine~~ or an electronic voting system, that  
13 contains the names of the candidates and the public questions on  
14 the ballot; or  
15 (2) the booklet, pamphlet, or other material, supplied for use with  
16 a ballot card voting system, that contains those names and  
17 questions.

HB 1407—LS 7361/DI 75+



C  
o  
p  
y

SECTION 3. IC 3-5-2-52 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2005]: Sec. 52. "Voting method" means the use  
of:

- (1) paper ballots;
  - ~~(2) voting machines;~~
  - ~~(3) (2)~~ ballot card voting systems;
  - ~~(4) (3)~~ electronic voting systems; or
  - ~~(5) (4)~~ any combination of these;
- to register votes in a precinct.

SECTION 4. IC 3-6-6-34 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2005]: Sec. 34. In a precinct where the voting  
is by any voting method except entirely by paper ballot, the poll clerks  
of the precinct shall perform all the duties connected with voting by  
~~voting machine~~, ballot card voting system or electronic voting system,  
and the assistant poll clerks shall perform all the duties connected with  
voting by paper ballot. It is necessary for only the two (2) assistant poll  
clerks to place their initials on the back of the paper ballots. The poll  
clerks shall tally the vote cast by paper ballot, and they alone shall sign  
the election certificates and returns. However, the precinct election  
board may call upon the assistant poll clerks to assist the poll clerks in  
any of their duties.

SECTION 5. IC 3-6-8-4 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2005]: Sec. 4. A watcher appointed under this  
chapter is entitled to:

- (1) enter the polls at least thirty (30) minutes before the opening  
of the polls and remain there throughout election day until all  
tabulations have been completed;
- (2) inspect the paper ballot boxes, ~~voting machines~~, ballot card  
voting system, or electronic voting system before votes have been  
cast;
- (3) inspect the work being done by any precinct election officer;
- (4) enter, leave, and reenter the polls at any time on election day;
- (5) witness the calling and recording of the votes ~~the reading of  
the totals from the voting machines~~; and any other proceedings of  
the precinct election officers in the performance of official duties;
- (6) receive a summary of the vote prepared under IC 3-12-2-15,  
~~IC 3-12-2-5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed  
by the precinct election board, providing:
  - (A) the names of all candidates of the political party whose  
primary election is being observed by the watcher and the  
number of votes cast for each candidate;
  - (B) the names of all candidates at a general, municipal, or

C  
o  
p  
y



1 special election and the number of votes cast for each  
2 candidate; or

3 (C) the vote cast for or against a public question;

4 (7) accompany the inspector and judge in delivering the  
5 tabulation and election returns to the county election board by the  
6 most direct route;

7 (8) be present when the inspector takes a receipt for the tabulation  
8 and election returns delivered to the county election board; and

9 (9) call upon the election sheriffs to make arrests.

10 SECTION 6. IC 3-6-9-13 IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2005]: Sec. 13. A watcher appointed under this  
12 chapter is entitled to do the following:

13 (1) Enter the polls at least thirty (30) minutes before the opening  
14 of the polls and remain there throughout election day until all  
15 tabulations have been completed.

16 (2) Inspect the paper ballot boxes, ~~voting machines~~, ballot card  
17 voting system, or electronic voting system before votes have been  
18 cast.

19 (3) Inspect the work being done by any precinct election officer.

20 (4) Enter, leave, and reenter the polls at any time on election day.

21 (5) Witness the calling and recording of the votes ~~the reading of~~  
22 ~~the totals from the voting machines~~; and any other proceedings of  
23 the precinct election officers in the performance of official duties.

24 (6) Receive a summary of the vote prepared under IC 3-12-2-15,  
25 ~~IC 3-12-2.5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed  
26 by the precinct election board, providing:

27 (A) the names of all candidates of the political party whose  
28 primary election is being observed by the watcher and the  
29 number of votes cast for each candidate if the watcher is  
30 appointed under section 1(a)(1) of this chapter; or

31 (B) the names of all candidates at a school board election and  
32 the number of votes cast for each candidate if the watcher is  
33 appointed under section 1(a)(2) of this chapter.

34 (7) Accompany the inspector and the judge in delivering the  
35 tabulation and the election returns to the county election board by  
36 the most direct route.

37 (8) Be present when the inspector takes a receipt for the  
38 tabulation and the election returns delivered to the county election  
39 board.

40 (9) Call upon the election sheriffs to make arrests.

41 SECTION 7. IC 3-6-10-5.5 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. A watcher

C  
o  
p  
y



appointed under this chapter is entitled to do the following:

- (1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.
- (2) Inspect the paper ballot boxes, ~~voting machines~~, ballot card voting system, or electronic voting system before votes have been cast.
- (3) Inspect the work being done by any precinct election officer.
- (4) Enter, leave, and reenter the polls at any time on election day.
- (5) Witness the calling and recording of the votes ~~the reading of the totals from the voting machines~~, and any other proceedings of the precinct election officers in the performance of official duties.
- (6) Receive a summary of the vote prepared under IC 3-12-2-15, ~~IC 3-12-2-5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing the names of all candidates and the number of votes cast for each candidate and the votes cast for or against a public question.
- (7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.
- (8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

SECTION 8. IC 3-8-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. Candidates shall be nominated or elected at a state convention by using ~~voting machines~~, ballot card systems or electronic voting systems. However, if there is no contest for an office, the nomination or election may be by motion and acclamation.

SECTION 9. IC 3-8-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The state chairman of the political party holding a state convention shall appoint an inspector and two (2) poll clerks to attend each voting ~~machine~~ or system at the convention. Each candidate may have one (1) watcher at each voting ~~machine~~ or system to check the voting ~~machine~~ or system before and after each ballot and to check the work of any election officer. The inspector and poll clerks:

- (1) shall take an oath to perform their duties faithfully and to the best of their abilities before anyone entitled to administer an oath;
- (2) must be qualified in relationship to candidates in the same manner as precinct election officers under IC 3-6-6-7; and
- (3) are subject to the same penalties as precinct election officers.

C  
o  
p  
y



SECTION 10. IC 3-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Each county election board shall prepare and distribute separate primary paper ballots for each political party participating in a primary election equal in number to one hundred percent (100%) of the number of votes cast by the party in each precinct at the last general election. If ~~voting machines~~, ballot card voting systems or electronic voting systems are used, the board shall determine the number of emergency paper ballots to be printed and furnished to the precincts.

SECTION 11. IC 3-10-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Except as provided by subsection (b), the names of all candidates for each office who have qualified under IC 3-8 shall be arranged in alphabetical order by surnames under the designation of the office.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The names of all candidates for each office who have qualified under IC 3-8, except for a school board office, precinct committeeman, or state convention delegate, shall be arranged in random order by surnames under the designation of the office. The random order shall be determined using a lottery. The lottery held in accordance with this subsection shall be conducted in public by the county election board. The lottery shall be held not later than fifteen (15) days following the last day for a declaration of candidacy under IC 3-8-2-4. All candidates whose names are to be arranged by way of the lottery shall be notified at least five (5) days prior to the lottery of the time and place at which the lottery is to be held. Each candidate may have one (1) designated watcher, and each county political party may have one (1) designated watcher who shall be allowed to observe the lottery procedure.

(c) For paper ballots, the left margin of the ballot for each political party must show the name of the uppermost candidate printed to the right of the number 1, the next candidate number 2, the next candidate number 3, and so on, consecutively to the end of the ballot as prescribed in section 19 of this chapter. The same order shall be followed for the printing of ballot labels and their placement on the ~~voting machine~~ or electronic voting system and for the printing of ballot cards.

(d) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). If there is insufficient room on a row to list each candidate of a political party, a second or subsequent row may be

C  
o  
p  
y



utilized. However, a second or subsequent row may not be utilized unless the first row, and all preceding rows, have been filled.

SECTION 12. IC 3-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

\_\_\_\_\_ Party

To vote for a person make a voting mark (X or ✓) on or in the box before the person's name in the proper column.

Vote for one only

Representative in Congress

☐ (1) AB \_\_\_\_\_

☐ (2) CD \_\_\_\_\_

☐ (3) EF \_\_\_\_\_

☐ (4) GH \_\_\_\_\_

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) ~~Clerk of the~~ Circuit court **clerk**.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

C  
o  
p  
y



- 1 (D) County sheriff.  
 2 (E) County coroner.  
 3 (F) County surveyor.  
 4 (G) County assessor.  
 5 (H) County commissioner.  
 6 (I) County council member.  
 7 (5) Township offices:  
 8 (A) Township assessor.  
 9 (B) Township trustee.  
 10 (C) Township board member.  
 11 (D) Judge of the small claims court.  
 12 (E) Constable of the small claims court.  
 13 (6) City offices:  
 14 (A) Mayor.  
 15 (B) Clerk or clerk-treasurer.  
 16 (C) Judge of the city court.  
 17 (D) City-county council member or common council member.  
 18 (7) Town offices:  
 19 (A) Clerk-treasurer.  
 20 (B) Judge of the town court.  
 21 (C) Town council member.  
 22 (c) The political party offices with candidates for election shall be  
 23 placed on the primary election ballot in the following order after the  
 24 offices described in subsection (b):  
 25 (1) Precinct committeeman.  
 26 (2) State convention delegate.  
 27 (d) The following offices and public questions shall be placed on the  
 28 primary election ballot in the following order after the offices described  
 29 in subsection (c):  
 30 (1) School board offices to be elected at the primary election.  
 31 (2) Other local offices to be elected at the primary election.  
 32 (3) Local public questions.  
 33 (e) The offices and public questions described in subsection (d)  
 34 shall be placed in a separate column on the ballot if voting is by paper  
 35 ballot, ballot card voting system, or electronic voting system. ~~or in a~~  
 36 ~~separate column of ballot labels if voting is by voting machine.~~  
 37 (f) A public question shall be placed on the primary election ballot  
 38 in the following form:  
 39 (The explanatory text for the public question,  
 40 if required by law.)  
 41 "Shall (insert public question)?"  
 42 ☐ YES

C  
o  
p  
y





1           [] NO

2           SECTION 13. IC 3-10-1-23 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. In a primary  
4 election in a county having a city, ~~voting machines~~, ballot card voting  
5 systems and electronic voting systems shall be employed as available  
6 and adaptable and shall be supplemented by paper ballots as necessary.  
7 However, this section does not require the purchase of ~~voting~~  
8 ~~machines~~, ballot card voting systems or electronic voting systems for  
9 a primary election.

10          SECTION 14. IC 3-10-1-27 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. If ~~voting machines~~  
12 ~~or~~ electronic voting systems are used in a precinct, one (1) of the poll  
13 clerks shall give a printed political party identification card to a voter  
14 after the voter signs the poll list. Before entering the ~~voting machine or~~  
15 voting booth, the voter must give the party identification card to a  
16 judge, and the judge shall set or have the ~~voting machine or~~ electronic  
17 voting system set to allow the voter to vote only for the candidates of  
18 the voter's party. After the ~~machine or~~ system is set, the voter may  
19 register a vote upon it within the time provided under

20           (1) ~~IC 3-11-12-29.5~~; for a voting machine; or

21           (2) IC 3-11-14-26. for an ~~electronic voting system~~.

22          SECTION 15. IC 3-10-1-28 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. After setting the  
24 ~~voting machine or~~ electronic voting system, the judge shall  
25 immediately deposit the political party identification card in a sealed  
26 container provided for that purpose. After the polls have closed, all  
27 party identification cards shall be counted and compared with the total  
28 number of votes cast in the election. All party identification cards must  
29 be of durable quality and the same color irrespective of the party that  
30 is designated.

31          SECTION 16. IC 3-10-4-1 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The names of the  
33 candidates of:

34           (1) a political party;

35           (2) a group of petitioners under IC 3-8-6; or

36           (3) a write-in candidate for the office of President or Vice  
37 President of the United States under ~~IC 3-8-2-1.5~~; **IC 3-8-2-2.5**;

38 for electors of President and Vice President of the United States may  
39 not be placed on the ballot.

40           (b) The names of the nominees for President and Vice President of  
41 the United States of each political party or group of petitioners shall be  
42 placed:

C  
o  
p  
y



(1) in one (1) column on the ballot if paper ballots or a ballot card voting system is used; **or**  
~~(2) on one (1) ballot label in one (1) column or row if voting machines are used; or~~  
~~(3) (2)~~ (2) in a separate column on the ballot label if an electronic voting system is used.

(c) The name of each write-in candidate for the office of President or Vice President of the United States shall be placed as provided under IC 3-11-2-6.

SECTION 17. IC 3-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If paper ballots or a ballot card voting system is used, a single square shall be printed in front of a bracket enclosing the names of the nominees for President and Vice President of the United States on the left margin of each separate column of the ballot, immediately opposite the names of the nominees.

(b) The device named and list of nominees of the political party whose nominee received the highest number of votes in that county for secretary of state at the last election shall be placed in the first column on the left side of the ballot if paper ballots or a ballot card voting system is used or, if ~~voting machines~~ or an electronic voting system is used, in the first column or row. The political party whose nominee received the second highest number of votes in that county for secretary of state at the last election shall be placed in the second column or row. Other political parties shall be placed on the ballot in the same order.

(c) If a political party or an independent ticket did not have a candidate for secretary of state in the last election, the party or ticket shall be placed on the ballot after the parties described in subsection (b). If more than one (1) political party or independent ticket that has qualified to be on the ballot did not have a candidate for secretary of state in the last election, each party or independent ticket shall be listed on the ballot in the order in which the party or independent ticket filed a petition of nomination under IC 3-8-6-12.

SECTION 18. IC 3-10-7-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. Upon request of a town election board, the county election board of each county in which the town is located shall furnish any available equipment that is necessary for a municipal election, including ~~voting machines~~, ballot card voting systems and electronic voting systems. The town shall pay the expense of moving the equipment to and from the polls and for any loss of or damage to the equipment.

C  
o  
p  
y



SECTION 19. IC 3-11-1.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. If a county executive adopts the use of ~~voting machines~~, ballot card voting systems or electronic voting systems in a county in which ~~voting machines~~, ballot card voting systems or electronic voting systems have not been previously used, the county executive may establish precincts after primary election day and before August 1 by combining two (2) or more precincts into one (1) precinct.

SECTION 20. IC 3-11-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The following statement shall be printed in underlined print at the extreme top of a ballot to be used in an election covered by this title: ~~(or in the voting instructions for a voting machine)~~: "It is a crime to falsify this ballot or to violate Indiana election laws."

SECTION 21. IC 3-11-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. All written or printed instructions must be at the top of the ballot ~~(or above the ballot labels on a voting machine)~~ immediately below the statement required by section 7 of this chapter. No other instructions or writing may appear at any other place on the ballot, including the ballot for federal and state offices, except as specified by this title. The instructions must be in English and any other language that the board considers necessary, clear, concise, and written so that a voter will not be confused about the effect of the voter's voting mark and vote.

SECTION 22. IC 3-11-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The name or title of the political party or independent ticket described in section 6 of this chapter shall be placed at the top of the ballot. The device of the political party or independent ticket shall be placed immediately under the name of the political party or independent ticket. The instructions for voting a straight party ticket shall be placed to the right of the device, or if the ballot is part of a direct recording electronic voting system:

- (1) the instructions for voting a straight party ticket; and
- (2) the statement concerning presidential electors required under IC 3-10-4-3;

may be posted in any location within the voting booth that permits the voter to easily read the instructions instead of on the ballot face.

(b) The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any

C  
o  
p  
y



other marks on this ballot. If you wish to vote for a candidate seeking a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot."

(c) If the ballot contains an independent ticket described in section 6 of this chapter and at least one (1) other independent candidate, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot."

(d) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in or your vote will not be counted."

(e) Except for variations in ballot arrangement permitted for ~~voting machines under IC 3-11-12-7~~, ballot card voting systems under IC 3-11-13-11 or electronic voting systems under IC 3-11-14-7, the list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

(f) The election division or the circuit court clerk may authorize the printing of ballots containing a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

SECTION 23. IC 3-11-2-12.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.9. (a) School board offices to be elected at the general election shall be placed on the general election ballot after the offices described in section 12 of this chapter.

(b) School board offices shall be placed in a separate column on the ballot or ballot label if voting is by paper ballot, ballot card voting system, or electronic voting system. ~~or in a separate column of ballot labels if voting is by voting machine.~~

(c) This subsection applies to voting done by paper ballot or a ballot card voting system. If the ballot contains a candidate for a school board office, the ballot must also contain a statement that reads substantially as follows:

"To vote for a candidate for this office, make a voting mark on or

C  
o  
p  
y



in the square to the left of the candidate's name."

SECTION 24. IC 3-11-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The following offices and public questions shall be placed on the general election ballot in the following order after the offices described in section 12.9 of this chapter:

- (1) Retention of a justice of the supreme court.
- (2) Retention of a judge of the court of appeals.
- (3) Retention of the judge of the tax court.
- (4) Ratification of a state constitutional amendment.

(b) Whenever more than one (1) justice of the supreme court is subject to retention, the name of each justice must appear on the ballot in alphabetical order. However, if the justice serving as chief justice is subject to retention, the chief justice's name must appear first.

(c) Whenever more than one (1) judge of the court of appeals is subject to retention, the name of each judge must appear on the ballot in alphabetical order. However, if the judge serving as chief judge is subject to retention, the chief judge's name must appear first.

(d) These offices and public questions shall be placed in a separate column on the ballot or ballot label if voting is by paper ballot, ballot card voting system, or electronic voting system. ~~or in a separate column of ballot labels if voting is by voting machine.~~

SECTION 25. IC 3-11-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The following offices and public questions shall be placed on the general election ballot in the following order after the offices and public questions described in section 13 of this chapter:

- (1) Retention of a local judge.
- (2) Local nonpartisan judicial offices.
- (3) Local public questions.

(b) These offices and public questions shall be placed in a separate column on the ballot or ballot label if voting is by paper ballot, ballot card voting system, or electronic voting system. ~~or in a separate column of ballot labels if voting is by voting machine.~~

(c) If the ballot contains a candidate for a local nonpartisan judicial office, the ballot must also contain a statement that reads substantially as follows: "To vote for a candidate for this office, make a voting mark on or in the square to the left of the candidate's name."

(d) If more than one (1) local public question concerning the retention of a local judge is to be placed on a ballot, the public questions shall be placed on the ballot:

- (1) in alphabetical order according to the surname of the local

C  
o  
p  
y



1 judge; and

2 (2) identifying the court (including division or room) in which the  
3 judge serves.

4 SECTION 26. IC 3-11-3-2 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The election  
6 division shall have printed and shall distribute to the circuit court clerk  
7 of each county at each general election the following:

8 (1) If only paper ballots are used, the number of state paper  
9 ballots (and presidential ballots in a presidential election year)  
10 equal to one hundred percent (100%) of the number of voters in  
11 the county.

12 (2) If ~~voting machines~~, ballot card voting systems or electronic  
13 voting systems are used, only the number of presidential and state  
14 paper ballots that, in the election division's judgment, are  
15 necessary to meet an emergency.

16 (3) The number of provisional ballots for state offices (and  
17 provisional ballots for electors for President of the United States  
18 in presidential election years) that the election division considers  
19 necessary.

20 (b) The paper ballots shall be wrapped in packages, plainly marked,  
21 and securely sealed.

22 (c) The provisional ballots shall be separately wrapped in packages  
23 from the other paper ballots, plainly marked, and securely sealed.

24 (d) The clerk shall give a receipt for the paper ballots and the  
25 provisional ballots.

26 SECTION 27. IC 3-11-3-11 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The county election  
28 board shall deliver the following to each inspector or the inspector's  
29 representative:

30 (1) The sealed package of paper ballots, provisional ballots,  
31 sample ballots, and any other supplies provided for the inspector's  
32 precinct by the election division.

33 (2) The local sample ballots, the ballot labels, if any, and all poll  
34 lists, registration lists, and other supplies considered necessary to  
35 conduct the election in the inspector's precinct.

36 (3) The local ballots printed under the direction of the county  
37 election board as follows:

38 (A) The number of ballots equal to one hundred percent  
39 (100%) of the number of voters in the inspector's precinct,  
40 according to the poll list.

41 (B) In those precincts where ~~voting machines~~, ballot card  
42 systems or electronic voting systems are to be used, the

C  
o  
p  
y



1 number of paper ballots that will be required for emergency  
2 purposes only.

3 (C) Provisional ballots in the number considered necessary by  
4 the county election board.

5 (4) Twenty (20) ink pens suitable for printing the names of  
6 write-in candidates on the ballot or ballot envelope.

7 (5) Copies of the voter's bill of rights for posting as required by 42  
8 U.S.C. 15482.

9 (6) Copies of the instructions for a provisional voter required by  
10 42 U.S.C. 15482. The county election board shall provide at least  
11 the number of copies of the instructions as the number of  
12 provisional ballots provided under subdivision (3).

13 SECTION 28. IC 3-11-3-22 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Each county  
15 election board shall have printed in at least 14 point type on cards in  
16 English, braille, and any other language that the board considers  
17 necessary, the following:

18 (1) Instructions for the guidance of voters in preparing their  
19 ballots.

20 (2) Instructions explaining the procedure for write-in voting.

21 (3) Write-in voting notice cards that must be posted in each  
22 precinct that utilizes a ~~voting machine~~ or ballot card voting  
23 system that does not permit write-in voting. The notice cards must  
24 direct voters who want to cast write-in votes to request a write-in  
25 ballot from an election official.

26 (b) The board shall furnish the number of cards it determines to be  
27 adequate for each precinct to the inspector at the same time the board  
28 delivers the ballots for the precinct and shall furnish a magnifier upon  
29 request to a voter who requests a magnifier to read the cards.

30 SECTION 29. IC 3-11-3-35 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) This section  
32 applies to a county having a population of more than four hundred  
33 thousand (400,000), but less than seven hundred thousand (700,000).

34 (b) In each precinct where voting is by ~~voting machine~~ or electronic  
35 voting system, the county election board shall provide the following to  
36 be used if a ~~voting machine~~ or an electronic voting system  
37 malfunctions:

38 (1) The following number of paper ballots:

39 (A) Not less than ten (10) if the number of registered voters in  
40 the precinct is not more than three hundred (300).

41 (B) Not less than twenty-five (25) if the number of registered  
42 voters in the precinct is more than three hundred (300).

C  
o  
p  
y



(2) The necessary supplies and equipment as required by IC 3-11-11.

(c) Upon notice that a ~~voting machine~~ or an electronic voting system is out of order or fails to work, the precinct election board shall make the paper ballots provided under subsection (b) available to voters. The precinct election board shall contact the county election board to obtain additional ballots.

(d) Upon notice that a ~~voting machine~~ or an electronic voting system is out of order or fails to work, the county election board shall deliver additional necessary supplies to any precinct in the county, including additional paper ballots.

SECTION 30. IC 3-11-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The legislative body of a county may establish a cumulative fund under IC 6-1.1-41 to provide funds for the purchase of ~~voting machines~~, ballot card voting systems or electronic voting systems.

SECTION 31. IC 3-11-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. In preparing the polls for an election, the county executive shall:

(1) have placed within the room a railing separating the part of the room to be occupied by the precinct election board from that part of the room to be occupied by the ~~voting machines~~, ballot card voting systems, electronic voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;

(2) ensure that the portion of the room set apart for the precinct election board includes a door at which each voter appears for challenge; and

(3) provide a chute with a railing, rope, or wire on each side, beginning a distance equal to the length of the chute (as defined in IC 3-5-2-10) away from and leading to the door for challenge and to the room in which the election is held.

SECTION 32. IC 3-11-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Only the following persons are permitted in the polls during an election:

(1) Members of a precinct election board.

(2) Poll clerks and assistant poll clerks.

(3) Election sheriffs.

(4) Deputy election commissioners.

(5) Pollbook holders.

(6) Watchers.

(7) Voters for the purposes of voting.

C  
o  
p  
y





(8) Minor children accompanying voters as provided under IC 3-11-11-8. ~~and IC 3-11-12-29.~~

(9) An assistant to a precinct election officer appointed under IC 3-6-6-39.

(10) An individual authorized to assist a voter in accordance with IC 3-11-9.

(11) A member of a county election board, acting on behalf of the board.

(12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).

(13) Either of the following who have been issued credentials signed by the members of the county election board:

(A) The county chairman of a political party.

(B) The county vice chairman of a political party.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 33. IC 3-11-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A voter who:

(1) is a voter with disabilities; or

(2) is unable to read or write English;

may request assistance in voting before entering the voting booth and designate a person (other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union) to assist the voter in voting at an election, as required by 42 U.S.C. 1973aa-6.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The person designated must execute a sworn affidavit on a form provided by the precinct election board stating that, to the best of the designated person's knowledge, the voter:

(1) is a voter with disabilities or is unable to read or write English; and

(2) has requested the designated person to assist the voter in voting under this section.

C  
O  
P  
Y



(c) The person designated may then accompany the voter into the voting booth and assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the ~~voting machine~~ or electronic voting system.

SECTION 34. IC 3-11-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The following individuals shall assist a voter described by section 2 of this chapter who requests assistance in voting before entering the voting booth but does not wish to designate a person under that section.

(1) The two (2) judges if the voter is voting at a precinct.

(2) Two (2) members of the absentee voter board if the voter is voting absentee.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The individuals described in subsection (a) shall execute a sworn affidavit on a form provided by the precinct election board stating that, to the best of the individuals' knowledge, the voter:

(1) is a voter with disabilities or is unable to read or write English;

(2) has requested assistance in voting; and

(3) does not wish to designate a person to assist the voter in voting under section 2 of this chapter.

(c) The two (2) individuals described in subsection (a) shall then accompany the voter into the voting booth to assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the ~~voting machine~~ or electronic voting system.

SECTION 35. IC 3-11-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

(1) the affidavit is properly executed;

(2) the signatures correspond;

(3) the absentee voter is a qualified voter of the precinct;

(4) the absentee voter is registered and is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;

(5) the absentee voter has not voted in person at the election; and

(6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each

C  
o  
p  
y



1 ballot enclosed without unfolding or permitting a ballot to be unfolded  
2 or examined.

3 (b) The inspector shall then hand the ballots to the judges who shall  
4 deposit the ballots in the proper ballot box and enter the absentee  
5 voter's name on the poll list, as if the absentee voter had been present  
6 and voted in person. The judges shall mark the poll list to indicate that  
7 the voter has voted by absentee ballot. If the voter has registered and  
8 voted under IC 3-7-36-14, the inspector shall attach to the poll list the  
9 circuit court clerk's certification that the voter has registered.

10 ~~(c) If an absentee ballot is opened under this section in a precinct~~  
11 ~~using voting machines, the precinct election board shall prepare~~  
12 ~~certificates and memoranda under IC 3-12-2-6 that distinguish the~~  
13 ~~votes cast by absentee ballots from votes cast on voting machines.~~

14 SECTION 36. IC 3-11-13-26 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. After completion  
16 of the count, the tabulating machines shall be sealed ~~in the same~~  
17 ~~manner as voting machines under IC 3-12-2.5-6; as provided in~~  
18 **IC 3-12-3-10.** The ballot cards and all other election materials shall be  
19 sealed, retained, and disposed of as provided for paper ballots.

20 SECTION 37. IC 3-11.5-4-24 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) In addition to  
22 the preparations described in IC 3-11-11-2, ~~IC 3-11-12-24,~~  
23 IC 3-11-13-27, or IC 3-11-14-16, the inspector shall:

24 (1) mark the poll list; and

25 (2) attach the certificates of voters who have registered and voted  
26 under IC 3-7-36-14 to the poll list;

27 in the presence of the poll clerks to indicate the voters of the precinct  
28 whose absentee ballots have been received by the county election board  
29 according to the certificate supplied under section 1 of this chapter.

30 (b) The poll clerks shall sign the statement printed on the certificate  
31 supplied under section 1 of this chapter indicating that the inspector:

32 (1) marked the poll list; and

33 (2) attached the certificates described in subsection (a)(2);

34 under this section in the presence of both poll clerks.

35 (c) The inspector shall retain custody of the certificate supplied  
36 under section 1 of this chapter until the certificate is returned under  
37 section 9 of this chapter.

38 SECTION 38. IC 3-12-2-6 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a)~~ When all votes  
40 have been counted, the precinct election board shall prepare a  
41 certificate stating the number of votes that each candidate received for  
42 each office and the number of votes cast on each public question. The

C  
o  
p  
y



number of votes that each candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum.

(b) If:

(1) an absentee ballot has been cast in the precinct; and

(2) the precinct used voting machines;

the certificates and memoranda prepared under this section must comply with IC 3-11-10-16(c):

SECTION 39. IC 3-12-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. A county election board may not reject the certificates, poll lists, or tally papers returned from a precinct election board:

(1) for lack of form or for not being strictly in accordance with the directions contained in this title if the certificates can be satisfactorily understood; or

(2) if the returns are certified by the precinct election board as required by IC 3-12-2-6, ~~IC 3-12-2.5-6~~, IC 3-12-3-2, and IC 3-12-3.5-6 and returned by the inspector or one (1) of the judges of the board.

SECTION 40. IC 3-12-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. If ~~voting machines~~ or electronic voting systems are used in a precinct, the county election board may request authorization from the state recount commission to inspect the registering counter or other ~~mechanical~~ recording device on any ~~voting machine~~ or electronic voting system showing the number of votes cast for any candidate or public question. If authorized by the state recount commission, the board may conduct an inspection either before it proceeds to count and tabulate the vote or within one (1) day after the count and tabulation are finished.

SECTION 41. IC 3-12-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. To inspect ~~a voting machine or an~~ electronic voting system under section 18 of this chapter, the county election board may proceed to any place in the county where the ~~machine or~~ system is located, kept, or stored. However, the board shall make the inspection in the presence of an accredited representative of each of the major political parties of the county.

SECTION 42. IC 3-12-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. When making an inspection under section 18 of this chapter, a county election board shall compare the number of votes registered on the counter or other

C  
o  
p  
y



1 ~~mechanical~~ recording device on the ~~voting machines~~ or electronic  
 2 voting systems with the returns made by the precinct election board of  
 3 the precinct in which the ~~voting machine~~ or electronic voting system  
 4 was used.

5 SECTION 43. IC 3-12-4-21 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. If there is a  
 7 discrepancy between the number of votes registered on a ~~voting~~  
 8 ~~machine~~ or an electronic voting system and the returns made by the  
 9 precinct election board, the county election board shall correct the  
 10 returns made by the precinct election board so that the returns conform  
 11 to the vote registered on the ~~voting machine~~ or electronic voting  
 12 system. The corrected returns shall be considered the true and correct  
 13 returns of the number of votes cast for each candidate or on each public  
 14 question in the precinct.

15 SECTION 44. IC 3-12-4-22 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. If a nomination or  
 17 election is contested or a recount is conducted, the returns of each  
 18 precinct election board, as corrected by the county election board under  
 19 section 21 of this chapter, constitute prima facie evidence of the vote  
 20 cast for each candidate and on each public question to the same extent  
 21 as the tabulation and return of the vote in a precinct where ~~voting~~  
 22 ~~machines~~ or electronic voting systems are not used.

23 SECTION 45. IC 3-12-6-16 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A recount  
 25 commission consists of three (3) persons.

26 (b) Two (2) members of the commission must be voters who:

- 27 (1) are members of different major political parties of the state;
- 28 and
- 29 (2) were qualified to vote at the election in a county in which the
- 30 election district for the office is located.

31 (c) This subsection applies to a recount commission conducting a  
 32 recount of an election in which only paper ballots were used. The third  
 33 member of the commission must be a person who:

- 34 (1) is a member of a major political party of the state; and
- 35 (2) was qualified to vote at the election in a county in which the
- 36 election district for the office is located.

37 (d) This subsection applies to a recount of an election in which a  
 38 voting method other than only paper ballots was used. The third  
 39 member of the commission must be a competent mechanic who is  
 40 familiar with the ~~voting machines~~, ballot card voting systems or  
 41 electronic voting systems used in that election. The mechanic is not  
 42 required to be qualified to vote at the election in a county in which the

C  
o  
p  
y



election district for the office is located.

SECTION 46. IC 3-12-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) A court ordering a recount under this chapter shall by order impound and provide for the protection of the following:

(1) All ballots ~~voting machines~~, and electronic voting systems used at the election for casting votes in the precincts.

(2) All tally sheets relating to the votes cast for nomination or election to the office.

(3) All poll lists of persons registered by the poll clerks as having voted for nomination or election to the office.

(b) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by a court under this section to the extent that the orders conflict. The state recount commission shall assist a court acting under this section to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(c) An impoundment order issued under subsection (a) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of a person designated by the court.

SECTION 47. IC 3-12-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A court acting under section 19 of this chapter shall make the ballots, ~~voting machines~~, electronic voting systems, tally sheets, and poll lists available to the recount commission appointed under this chapter.

SECTION 48. IC 3-12-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. An election may be contested under section 1 of this chapter if a petitioner alleges that one (1) of the following circumstances existed:

(1) The contestee was ineligible.

(2) A mistake occurred in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes.

(3) A mistake occurred in the programming of a ~~voting machine~~ or an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.

(4) ~~A voting machine~~ or An electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes.

(5) A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest

C  
o  
p  
y



number of votes cast in the election.

SECTION 49. IC 3-12-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A petition filed under section 5 of this chapter must state the following:

(1) That the petitioner desires to contest the nomination or election to an office.

(2) The name of each candidate as set forth on the ballot for the election and address of each candidate as set forth in the records of the county election board or election division.

(3) That the petitioner in good faith believes that one (1) or more of the following occurred:

(A) The person declared nominated or elected does not comply with a specific constitutional or statutory requirement set forth in the petition that is applicable to a candidate for the office.

(B) A mistake was made in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes cast in the election.

(C) A mistake occurred in the programming of ~~a voting machine~~ or an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.

(D) ~~A voting machine~~ or An electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes.

(E) A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election.

(b) A petition stating that the petitioner believes that it is impossible to determine the candidate that received the highest number of votes for one (1) of the reasons described in subsection (a)(3)(B), (a)(3)(C), or (a)(3)(D) must identify each precinct in which:

(1) ballots:

(A) containing the printing mistake; or

(B) distributed by mistake;

were cast;

(2) a mistake occurred in the programming of ~~a voting machine~~ or an electronic voting system; or

(3) ~~a voting machine~~ or an electronic voting system malfunctioned.

(c) A petition stating that the petitioner believes that an act or series of actions described in subsection (a)(3)(E) occurred must identify each

C  
o  
p  
y



precinct or other location in which the act or series of actions occurred to the extent known to the petitioner.

SECTION 50. IC 3-12-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) A contest shall be heard and determined by the court without a jury subject to the Indiana Rules of Trial Procedure.

(b) The court shall determine the issues raised by the petition and answer to the petition.

(c) After hearing and determining a petition alleging that a candidate is ineligible, the court shall declare as elected or nominated the qualified candidate who received the highest number of votes and render judgment accordingly.

(d) If the court finds that:

- (1) a mistake in the printing or distribution of the ballots used in the election;
- (2) a mistake in the programming of a ~~voting machine~~ or an electronic voting system;
- (3) a malfunction of a ~~voting machine~~ or an electronic voting system; or
- (4) the occurrence of a deliberate act or series of actions;

makes it impossible to determine which candidate received the highest number of votes, the court shall order that a special election be conducted under IC 3-10-8.

(e) The special election shall be conducted in the precincts identified in the petition in which the court determines that:

- (1) ballots containing the printing mistake or distributed by mistake were cast;
- (2) a mistake occurred in the programming of a ~~voting machine~~ or an electronic voting system;
- (3) a ~~voting machine~~ or an electronic voting system malfunctioned; or
- (4) the deliberate act or series of actions occurred.

SECTION 51. IC 3-12-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Each petition for a recount filed under section 2 of this chapter must state the following:

- (1) The office for which the petitioner desires a recount.
- (2) The precincts in which the petitioner desires a recount.
- (3) That the individual is entitled to a recount under this chapter and that the nomination or election to office at issue was voted upon in the precincts specified.
- (4) The name of the candidates as set forth on the ballot for the election and address of the candidates as set forth in the records

C  
O  
P  
Y





of the election division.

(5) That the petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.

(6) That the petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

(b) Each petition for a contest filed under section 2 of this chapter must state the following:

(1) The nomination or election to office that the petitioner contests.

(2) That the individual is entitled to contest an election or a nomination to office under this chapter.

(3) The name of the candidates as set forth on the ballot for the election and address of each of the candidates as set forth in the records of the election division.

(4) That the petitioner in good faith believes that one (1) or more of the following occurred:

(A) The person declared nominated or elected does not comply with a specific constitutional or statutory requirement set forth in the petition that is applicable to a candidate for the office.

(B) A mistake was made in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes cast in the election.

(C) A mistake occurred in the programming of ~~a voting machine~~ or an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.

(D) ~~A voting machine~~ or An electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes.

(E) A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election.

(c) A petition stating that the petitioner believes that a mistake described in subsection (b)(4)(B), (b)(4)(C), or (b)(4)(D) has occurred must identify each precinct in which:

(1) ballots:

(A) containing the printing mistake; or

(B) distributed by mistake;

were cast;

(2) a mistake occurred in the programming of ~~a voting machine~~

C  
o  
p  
y



1           ~~or~~ an electronic voting system; or

2           (3) ~~a voting machine~~ or an electronic voting system  
3           malfunctioned.

4           (d) A petition stating that the petitioner believes that an act or series  
5           of actions described in subsection (b)(4)(E) occurred must identify  
6           each precinct or other location in which the act or series of actions  
7           occurred to the extent known to the petitioner.

8           SECTION 52. IC 3-12-11-16 IS AMENDED TO READ AS  
9           FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) Except as  
10          provided in subsection (b), the state recount commission may by order  
11          impound and provide for the protection of the following:

12          (1) All ballots ~~voting machines~~, and electronic voting systems  
13          used at the election for casting votes in the precincts.

14          (2) All tally sheets relating to the votes cast for the office.

15          (3) All poll lists of persons registered by the poll clerks as having  
16          voted for the office.

17          (b) In a recount of an election for a legislative office, the state  
18          recount commission shall by order impound and provide for the  
19          protection of the following:

20          (1) All ballots ~~voting machines~~, and electronic voting systems  
21          used at the election for casting votes in all of the precincts within  
22          the legislative district.

23          (2) All tally sheets relating to the votes cast for the office.

24          (3) All poll lists of persons registered by the poll clerks as having  
25          voted for the office.

26          SECTION 53. IC 3-12-11-18 IS AMENDED TO READ AS  
27          FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) When a recount  
28          is completed by the state recount commission or its designee, the  
29          commission shall:

30          (1) make and sign a certificate showing the total number of votes  
31          received in the precincts by each candidate for nomination or  
32          election to the office;

33          (2) state in its certificate the candidate who received the highest  
34          number of votes in the precincts for nomination or election to the  
35          office and by what plurality; and

36          (3) file its certificate with the election division.

37          (b) When a contest proceeding in which a candidate is alleged to be  
38          ineligible is completed by the state recount commission or its designee,  
39          the commission shall make a final determination concerning the  
40          eligibility of the candidate for nomination or election to the office.

41          (c) If the state recount commission or its designee determines that:

42          (1) a mistake was made in the printing or distribution of ballots

C  
o  
p  
y



used in the election;

(2) a mistake was made in the programming of a ~~voting machine~~  
or an electronic voting system;

(3) a ~~voting machine~~ or an electronic voting system  
malfunctioned; or

(4) a deliberate act or series of actions occurred;

that makes it impossible to determine which candidate received the  
highest number of votes cast, the commission shall order that a special  
election be conducted under IC 3-10-8.

(d) The special election ordered under subsection (c) shall be held  
in the precincts identified in the petition in which the commission  
determines that:

(1) ballots containing the printing mistake or distributed by  
mistake were cast;

(2) a mistake occurred in the programming of a ~~voting machine~~  
or an electronic voting system;

(3) a ~~voting machine~~ or an electronic voting system  
malfunctioned; or

(4) a deliberate act or series of actions occurred.

SECTION 54. IC 3-12-12-11 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A recount  
commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

(1) are members of different major political parties of the state;  
and

(2) were qualified to vote at the election in a county in which the  
election district that voted on the public question is located.

(c) This subsection applies to a recount commission conducting a  
recount of an election in which only paper ballots were used. The third  
member of the commission must be a person who:

(1) is a member of a major political party of the state; and

(2) was qualified to vote at the election in a county in which the  
election district that voted on the public question is located.

(d) This subsection applies to a recount of an election in which a  
voting method other than only paper ballots was used. The third  
member of the commission must be a competent mechanic who is  
familiar with the ~~voting machines~~, ballot card voting systems or  
electronic voting systems used in that election. The mechanic is not  
required to be qualified to vote at the election in a county in which the  
election district that voted on the public question is located.

SECTION 55. IC 3-12-12-14 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A court ordering

C  
o  
p  
y



a recount under this chapter shall by order impound and provide for the protection of the following:

(1) All ballots ~~voting machines~~, and electronic voting systems used at the election for casting votes in the precincts.

(2) All tally sheets relating to the votes cast on the public question.

(3) All poll lists of persons registered by the poll clerks as having voted on the public question.

(b) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by a court under this section to the extent that the orders conflict. The state recount commission shall assist a court acting under this section to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(c) An impoundment order issued under subsection (a) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of a person designated by the court.

SECTION 56. IC 3-12-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A court acting under section 14 of this chapter shall make the ballots, ~~voting machines~~, electronic voting systems, tally sheets, and poll lists available to the recount commission appointed under this chapter.

SECTION 57. IC 3-14-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A voter who knowingly:

(1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted; ~~on a voting machine~~; or

(2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes; ~~on a voting machine~~;

commits a Class D felony.

SECTION 58. IC 3-14-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. A person who knowingly inspects ~~a voting machine or an~~ electronic voting system under IC 3-12-4-18 without obtaining authorization from the state recount commission to conduct the inspection commits a Class D felony.

SECTION 59. IC 3-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A person who knowingly:

C  
o  
p  
y



- (1) interferes with a watcher;
- (2) prevents a watcher from performing the watcher's duties;
- (3) otherwise violates:
  - (A) IC 3-6-8-3;
  - (B) IC 3-6-8-4;
  - (C) IC 3-6-8-5;
  - (D) IC 3-6-8-6;
  - (E) IC 3-6-9; or
  - (F) IC 3-6-10; or
- (4) violates ~~IC 3-11-12-21(c)~~ or IC 3-11-13-44(d);

commits a Class D felony.

SECTION 60. IC 3-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A precinct election officer who, with the intent to cause or permit a ~~voting machine~~, ballot card voting system or ~~an~~ electronic voting system to fail to correctly register all votes cast, tampers with or disarranges the ~~machine~~ or system or any part of it commits a Class D felony.

SECTION 61. IC 3-14-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. A precinct election officer who permits a ~~voting machine~~, ballot card voting system or ~~an~~ electronic voting system to be used for voting at an election, with knowledge of the fact that the ~~machine~~ or system is not in order or not perfectly set and adjusted so that it will correctly register all votes cast, commits a Class D felony.

SECTION 62. IC 3-14-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. An inspector or poll clerk in a precinct who, for the purpose of:

- (1) deceiving a voter;
- (2) causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or
- (3) causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates a ballot label ~~on a voting machine~~ or any part thereof commits a Class D felony.

SECTION 63. IC 3-14-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A person other than a precinct election officer who knowingly, before or during an election:

- (1) damages, disarranges, or tampers with a ~~voting machine~~, ballot card system or ~~an~~ electronic voting system; or
- (2) damages a ballot label placed or to be placed on the ~~machine~~, electronic voting system, or any other appliance used in

C  
o  
p  
y



1 connection with the ~~machine~~, ballot card voting system or  
 2 electronic voting system;  
 3 commits a Class D felony.

4 SECTION 64. IC 3-14-4-8 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A member of a  
 6 precinct election board, an absentee ballot counter appointed under  
 7 IC 3-11.5-4-22, or a provisional ballot counter appointed under  
 8 IC 3-11.7-3 who knowingly:

9 (1) opens or marks, by folding or otherwise, a ballot presented by  
 10 a voter, except as provided by law; or

11 (2) tries to find out how the voter voted before the ballot is  
 12 deposited in the ballot box or cast on a ~~voting machine~~, ballot  
 13 card voting system or ~~an~~ electronic voting system or counted by  
 14 the absentee ballot counter;

15 commits a Class D felony.

16 SECTION 65. IC 3-14-4-10 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. A person who  
 18 knowingly violates:

19 (1) IC 3-11.5-5;

20 (2) IC 3-11.5-6;

21 (3) IC 3-12-2-1;

22 ~~(4) IC 3-12-2.5-9;~~

23 ~~(5)~~ (4) IC 3-12-3-14; or

24 ~~(6)~~ (5) IC 3-12-3.5-7;

25 by providing any other person with information concerning the number  
 26 of votes a candidate received for an office or cast to approve or reject  
 27 a public question on absentee ballots counted under IC 3-11.5-5,  
 28 IC 3-11.5-6, or IC 3-12 before the closing of the polls commits a Class  
 29 D felony.

30 SECTION 66. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 31 JULY 1, 2005]: IC 3-5-2-50.6; IC 3-11-3-3; IC 3-11-5; IC 3-11-12;  
 32 IC 3-12-2.5.

C  
o  
p  
y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1407, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 27, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 57. IC 3-14-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A voter who knowingly:

(1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted; ~~on a voting machine;~~ or

(2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes; ~~on a voting machine;~~

commits a Class D felony."

Page 28, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 62. IC 3-14-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. An inspector or poll clerk in a precinct who, for the purpose of:

(1) deceiving a voter;

(2) causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or

(3) causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates a ballot label ~~on a voting machine~~ or any part thereof commits a Class D felony."

Page 29, line 11, delete "; IC 3-14-2-18; IC 3-14-3-7." and insert ".".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1407 as introduced.)

THOMAS, Chair

Committee Vote: yeas 10, nays 0.

C  
o  
p  
y

